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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,057	06/24/2004	Timothy Bonerb	BON.US.58	9133
24111	7590	09/20/2006	EXAMINER	
MESMER & DELEAULT, PLLC 1 NEW HAMPSHIRE AVE. SUITE 125 PORTSMOUTH, NH 03801			DILLON JR, JOSEPH A	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/500,057	BONERB, TIMOTHY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph A. Dillon, Jr.	3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1,2 and 15-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-14 and 24 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/20/04</u> .                                                 | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Applicant's election with traverse of 9/13/06 is acknowledged. The traversal is on the ground(s) that the wrong set of Restriction rules were applied.
2. The Restriction requirement of 7/14/06 is hereby withdrawn in favor of the following Restriction.

### ***Election/Restrictions***

3. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-2, drawn to a conveyor.

Group II, claim(s) 3-14 & 24, drawn to a hopper.

Group III, claim(s) 15-18, drawn to an I-beam.

Group IV, claim(s) 19-23, drawn to a frame.

4. The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: those feature(s) likely to contribute to patentability over the prior art are divergent and/or varying in scope.

### ***Drawings***

5. The subject matter of this application admits of illustration by a new drawing to facilitate understanding of the invention. Applicant is required to furnish a new drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing.

The various embodiments of claim(s) 12 have not been illustrated.

A proposed drawing correction, or deletion of these features from the claims, is required in response to this Office action. Appropriate corresponding amendment of the specification to refer to these features is also required. No new matter should be entered.

#### ***Claim Objections***

6. Claims 5-8 are objected to because of the following informalities:

Claim(s) 5-8 have a grammatical error.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim(s) 5-8 have a grammatical error.

#### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 3-5, 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (4,966,311).

Taylor (4,966,311) discloses:

- a horizontal support frame 20;
- frame brackets 72;
- hopper, Figure(s) 3, internal square;
- hopper brackets 73;
- spacer 70;
- vibration isolator 80;
- flange ring 96, 98, Figure(s) 2;
- plate & device 61 7 63;
- surge hopper 60.

11. Claims 24 is rejected under 35 U.S.C. 102(e) as being anticipated by Madison et al. (6,499,937).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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13. Claim 3-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (4,966,311) in view of Madison et al. (6,499,937).

With regard to claim(s) 13, 14, Taylor (4,966,311) lacks a swivel seat. Madison et al. (6,499,937) teach(es) a swivel seat.

With regard to claim(s) 6, Taylor (4,966,311) discloses vibration isolator 80. To additionally provide a load cell would be obvious.

It would have been obvious to modify Taylor (4,966,311) to provide a seat & load cell in order to accommodate practical considerations as taught by Madison et al. (6,499,937).

### ***Conclusion***

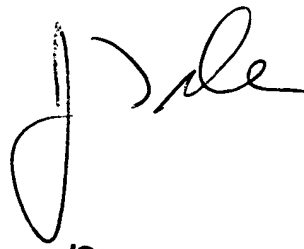
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Dillon, Jr. whose telephone number is (571)272-6913. The examiner can normally be reached on 8-5:30, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and (571) 273-8300 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-5250.



**JOE DILLON, JR.**  
**PRIMARY PATENT EXAMINER**